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EXAMINER

WILSON, ROBERT W

ART UNIT	PAPER NUMBER
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2419

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/648,850

Applicant(s)

SEBIRE, GUILLAUME

Examiner

ROBERT W. WILSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-36 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 3, 4, 18 and 30-33 is/are allowed.
6) ☒ Claim(s) 1-2, 5-13, 16-17, 19-29, & 34-36 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5-6, 8, 10, 23, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (U.S. Patent Pub No.: 2003/0220119) in view of Homma (U.S. Patent No.: 5,572,678)

Referring to claim 1, Terry teaches: A method comprising at a mobile station (method is performed by UE subscript j 12 subscript j per Fig 3) comprising:

determining a link quality of the point-to-multipoint channel based on link quality related measurement on said point-to-multipoint channel , while multicasting on point-to-multipoint channel (UE subscript j 12 subscript j has channel quality measurement device per Fig 3 which measures link quality which is sent to NODE-B18 per Figs 3 & 4 and a determination of whether PTP or PTM is determined)

Terry does not expressly call for: sending a request to said mobile communication network to transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality

Homma teaches: sending a request to said mobile communication network to transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality (request retransmission via point to point if error per col. 5 line 34 to col. 6 line 7)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the sending a request to said mobile communication network to transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality of Homma to the system of Terry in order to build a system which can recover when message is corrupted or lost.

Referring to claim 2, the combination of Terry and Homma teach: the method of claim 1.

Terry does not expressly call for: further comprising said network establishing a point-to-point channel in case said determined link quality lies below a link quality

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Homma teaches: further comprising said network establishing a point-to-point channel in case said determined link quality lies below a link quality (retransmit via point to point in response to receiving a request per col. 5 line 34 to col. 6 line

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the network establishing a point-to-point channel in case said determined link quality lies below a link quality of Homma to the system of the combination of Terry and Homma in order to build a system which can recover when a message is corrupted or lost

In addition Terry teaches:

Regarding claim 5, further comprising said network providing an indication of said given link quality to said mobile (mobile receives data on a channel which the mobile measures in order to determine the link quality per Pg 1 Para [0020] to Pg 2 Para [0028]

Regarding claim 6, wherein said network provides an indication of said given link quality to said mobile station for each multicast service for which multicast data is to be transmitted to said mobile station (mobile receives data on a channel which the mobile measures in order to determine the link quality associated with each service per Pg 1 Para [0020] to Pg 2 Para [0028]

Regarding claim 8, further comprising for supporting switch from a point-to-point channel to a point-to-multipoint channel for transmitting multicast data from a mobile communication network to a mobile station (Fig 4)

Said mobile communication network estimating a link quality of a point-to-point multipoint channel while transmitting multicast data to a point-to-point channel to said mobile (Node-B18 sends PTP data to UE subscript j 12 subscript j while evaluating Channel Quality measurement per Figs 3 & 4)

Referring to claim 10, Terry teaches: an apparatus (Fig 3 & 4) comprising:

A measuring portion (40 per Fig 30) for performing link quality related measurements on a point-to-multipoint channel via which said mobile station receives multicast data from a mobile communication network

A Processing portion (30 per Fig 3) for determining a link quality of a point-to-multipoint channel based on a measurement result provided by said measuring portion and for comparing a determined link quality with a given link quality

Transmitting portion (34 per Fig 3) from said mobile

in case said processing portion detect that a determined link quality of a point-to-point channel, in case said processing portion detects that a determined link quality of a point-to-point multipoint channel employed for transmitting said multicast data lies below a

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given quality link channel employed for transmitting said multicast data lies below a given link quality (Pg 2 Para[0021] to [0030])

Terry does not expressly call for: request to a mobile communication network to transmit multicast data via a point-to-point channel

Homma teaches: request to a mobile communication network to transmit multicast data via point-to-point channel (request retransmission via point to point if error per col. 5 line 34 to col. 6 line 7)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add request to a mobile communication network to transmit multicast data via point-to-point Homma to the system of Terry in order to build a system which can recover when message is corrupted or lost.

In addition Terry teaches:

Regarding claim 23, wherein said apparatus is a mobile station or part of a mobile station (Part of a mobile station per Figs 3)

Referring to claim 11, Terry teaches: an apparatus in a mobile communication network (Fig 3 & 4) said apparatus comprising:

Receiving portion (31 per Fig 3) configured to receiving from a mobile station

Processing portion configured to switch (scheduling mechanism per Fig 4)

Terry does not expressly call for: request to switch from using a point-to-multipoint channel to using a point-to-point channel for transmitting multicast data to said mobile station and switching upon such a request received by said receiving portion from using a point-to-multipoint channel to using a point-to-point channel for transmitting multicast data to said mobile station

Homma teaches: request to switch from using a point-to-multipoint channel to using a point-to-point channel for transmitting multicast data to said mobile station and switching upon such a request received by said receiving portion from using a point-to-multipoint channel to using a point-to-point channel for transmitting multicast data to said mobile station

(request retransmission via point to point if error followed by transmission by point to point per col. 5 line 34 to col. 6 line 7)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add request to switch from using a point-to-multipoint channel to using a point-to-point channel for transmitting multicast data to said mobile station and switching upon such a request received by said receiving portion from using a point-to-multipoint

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channel to using a point-to-point channel for transmitting multicast data to said mobile station request of Homma to processing portion and transmitting portion of Terry in order to build a system which can recover when message is corrupted or lost.

In addition Terry teaches:

Regarding claim 12, subnetwork of a mobile communication network (Fig 3 and Fig 4 are a subnetwork)

Regarding claim 24, wherein said apparatus is a sub-network in a mobile communication network or part of a subnetwork of a mobile communication network (part of a subnetwork per Figs 3 and 4)

Referring to claim 27, Terry teaches: an apparatus (Fig 3 & 4) comprising:

Means for performing (40 per Fig 30) link quality related measurements on a point-to-multipoint channel via which said mobile station receives multicast data from a mobile communication network

means for determining (30 per Fig 3) a link quality of a point-to-multipoint channel based on a measurement result provided by said measuring portion and for comparing a determine link quality with a given link quality

means for transmitting (34 per Fig 3) from said mobile

in case said processing portion detect that a determined link quality of a point-to-point channel, in case said processing portion detects that a determined link quality of a point-to-point multipoint channel employed for transmitting said multicast data lies below a given quality link channel employed for transmitting said multicast data lies below a given link quality (Pg 2 Para[0021] to [0030])

Terry does not expressly call for: request to a mobile communication network to transmit multicast data via a point-to-point channel

Homma teaches: request to a mobile communication network to transmit multicast data via point-to-point channel (request retransmission via point to point if error per col. 5 line 34 to col. 6 line 7)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add request to a mobile communication network to transmit multicast data via point-to-point Homma to means for transmitting of Terry in order to build a system which can recover when message is corrupted or lost.

Referring to claim 28, Terry teaches: an apparatus (Fig 3 & 4) comprising:

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Means for receiving (32 per Fig 3) from a mobile station

Means for switching (46 per Fig 3) upon such a request received by said receiving portion using a point-to-multipoint channel to using a point-to-point channel for transmitting multicast data to said mobile station

Homma teaches: request to a mobile communication network to transmit multicast data via point-to-point channel (request retransmission via point to point if error per col. 5 line 34 to col. 6 line 7)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add request to a mobile communication network to transmit multicast data via point-to-point Homma to means for receiving of Terry in order to build a system which can recover when message is corrupted or lost.

3. Claims 16 & 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (U.S. Patent Pub No.: 2003/0220119) in view of Terry (U.S. Patent No.: 6,810,236)

Referring to claim 16, Terry teaches: a method comprising a communication network (Fig 3 and 4 depict a network)

receiving from a mobile station measurement results of link quality related measurements on a point-to-point channel which point to point channel is currently used by said network from transmitting multicast data to said mobile station (NODE-B18 receives measurement from UE subscript j 12 subscript j per Fig 3 and 4)

estimating a link quality of a point-to-multipoint channel while transmitting multicast data on said point-to-point channel to said mobile station wherein said mobile communication network estimates a said link quality of said point-to-point multipoint channel based on said measurement results for said point-to-point channel (NODE-B18 receives measurement from UE subscript j 12 subscript j and estimates in channel quality measurement processing per Fig 3 and 4)

in case said estimated link quality of said point-to-multipoint channel reaches a required link quality ordering said mobile station to switch from said point-to-point channel to said point-to-multipoint (Scheduling mechanism orders per Fig 4)

Terry does not expressly call for: requesting from the mobile measurement results on link quality

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Terry (US 6,810,236) teaches: requesting from the mobile measurement results on link quality (col. 3 lines 1 to 21)

It would have been obvious to add the requesting from the mobile measurement results on link quality of Terry (U.S. 6,810, 236) to the system of Terry in order to determine the best usage of resources.

Referring to claim 35, Terry teaches: an apparatus for a mobile communication network comprising:

A communication component (32 per Fig 3) configured to receive from a mobile station measurement results for link quality related measurement on a network for transmitting multicast data to said mobile station

A processing component (30 per Fig 3) configured to estimate a link quality of a point-to-multipoint channel while multicasting on a point-to-point channel to said mobile station, wherein processing component is configured to estimate said link quality of said point-to-multipoint channel based on said measurement results for said point-to-point channel

A processing component (46 per Fig 4) configured to order said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data in case said estimated link quality of said point-to-multipoint channel reaches a required link quality

to said mobile station, wherein said processing component is configured to estimate said link quality of said point-to-point

Terry does not expressly call for: requesting from the mobile measurement results on link quality

Terry (US 6,810,236) teaches: requesting from the mobile measurement results on link quality (col. 3 lines 1 to 21)

It would have been obvious to add the requesting from the mobile measurement results on link quality of Terry (U.S. 6,810, 236) to communication component configure to receive of Terry in order to determine the best usage of resources.

Referring to claim 36, Terry teaches: an apparatus (Fig 3 & 40 comprising:

A measurement component (40 per Fig 4) configured to perform link quality related measurements on a point-to-point channel which point-to-point channel is currently used by a mobile communication network for transmitting multicast data to said apparatus, and transmitting measurement results to said mobile communication network wherein said measurement results are suited to enable said mobile communication network to estimate

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a link quality of said point-to-multipoint channel while transmitting multicast data on said point-to-point channel to said mobile station

A switching component configured to receive an order from said mobile communication network to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data in case said mobile communication network determined that said estimated link quality of said point-to-multipoint channel reaches a required link quality, and to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data upon receipt of said order (46 per Fig 40)

Terry does not expressly call for: requesting from the mobile measurement results on link quality

Terry (US 6,810,236) teaches: requesting from the mobile measurement results on link quality (col. 3 lines 1 to 21)

It would have been obvious to add the requesting from the mobile measurement results on link quality of Terry (U.S. 6,810, 236) measurement component of Terry in order to determine the best usage of resources.

4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Homma (U.S. Patent No.: 5,572,678) in view of Sharony (U.S. Patent No.: 6,577,609)

Referring to claim 26, Homma teaches: a method comprising a subnetwork of a mobile communication network (Fig1, 3A, & 3B perform the method)

Receiving from station a request to switch from using a point-to- multipoint channel using a point-to-point channel for transmitting multicast data to said mobile (destination terminal sends a retransmission request to sending terminal transmitting multicast on a point-to-multipoint channel per col. 5 line 43 to col. 6 line 9)

Switching upon such a request received by said receiving portion using a point-to-multipoint channel to using a point-to-point channel for transmitting multicast data to said station (The sending terminal has an inherent receiving portion and switches to transmitting multicast on a one to one basis or point to point per col. 5 line 43 to col. 6 line 9)

Homma does not expressly call for: mobile

Sharony teaches: mobile (Mobile station utilize multicasting and unicasting on WLAN per col. 8 line 17 to 45)

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It would have been obvious to add mobile of Sharon in place of destination terminal of Homma in order to utilize multicasting on a wireless LAN; thus, allowing the mobile station to roam.

5. Claims 17, 19-21, 25, 29, & 34 are rejected under 35 U.S.C. 102(E) as being anticipated by Terry (U.S. Patent Pub No.: 2003/0220119)

Referring to claim 17, Terry teaches: a method comprising a communication network (Fig 3 and 4 depicts a network)

estimating a link quality of a point-to-multipoint channel while transmitting multicast data on said point-to-point channel to said mobile station wherein said mobile communication network estimates a said link quality of said point-to-point multipoint channel based on said measurement results for said point-to-point channel (NODE-B18 receives measurement from UE subscript j 12 subscript j and estimates in channel quality measurement processing per Fig 3 and 4)

in case said estimated link quality of said point-to-multipoint channel reaches a required link quality ordering said mobile station to switch form said point-to-point channel to said point-to-multipoint for receiving said multicast data (Scheduling mechanism orders per Fig 4)

wherein said mobile communication network order said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data by means for a switch order, which switch order releases aid point-to-point connection and provides parameters for said point-to-multipoint said mobile station (Scheduling mechanism orders switch PTP to PTM and sends PTM data which has parameters per Fig 3 & 4)

Referring to claim 19, Terry teaches: an apparatus (Fig 3 & 4) for a mobile communication network comprising:

Transmitting portion (34 per Fig 3) configured for transmitting multicast data using at least one of a point-to-point channel and a point-to-multipoint channel from said mobile

A Processing portion (30 per Fig 3) configured for estimating a link quality of a point-to-multipoint channel while said transmitting portion uses a point-to-point channel for transmitting multicast data to a mobile station and for ordering said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data, in case said estimating link quality lies above a required link quality

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wherein ordering by said processing component is via a switch order which switch order releases said point-to-point connection and provides parameter for said point-to-multipoint channel to said mobile station (Scheduling mechanism orders switch PTP to PTM and sends PTM data which has parameters per Fig 3 & 4)

In addition Terry teaches:

Regarding claim 20, said mobile station including a receiving portion for receiving multicast data from said mobile communication network (36 per Fig 3 or receiving portion)

Regarding claim 21, wherein said mobile station further includes:

A measuring portion (40 per Fig 3) configured for performing link quality related measurements on a point-to-point channel via which said mobile station receives multicast data from said subnetwork

A transmitting portion (34 per Fig 3) configured for transmitting measurement results of said measuring portion to said sub-network

and wherein said sub-network further includes:

a receiving portion (32 per Fig 3) for receiving from said mobile station measurement results on a link quality of a point-to-point channel employed by said sub-network for transmitting multicast data to said mobile station, said processing portion configured for estimating said link quality of said point-to-point multipoint channel from measurement results received by said receiving portion from a mobile station

Regarding claim 25, wherein said apparatus is a sub-network in a mobile communication network or part of a subnetwork of a mobile communication network (part of a subnetwork per Figs 3 and 4)

Referring to claim 29, Terry, teaches: an apparatus (B18 per Figs 3 & 4) for a mobile communication network (Fig 3 & 4) said apparatus comprising:

Means for transmitting (32 per Fig 3 & per Pg 1 Para [0020] to Pg 2 Para [0028])) multicast data using at least one of a point-to-point channel and a point-to-multipoint

Means for estimating the link quality (30 per Fig 3 and per Pg 1 Para [0020] to Pg 2 Para [0028])) of a point-to-point channel while said transmitting portion uses a point-to-point channel for transmitting multicast data to said mobile station to-multipoint channel and for ordering (46 per Fig 4 orders and per Pg 1 Para [0020] to Pg 2 Para [0028])) said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data in case said estimated link quality lies above a required link quality

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wherein said mobile communication network order said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data by means for a switch order, which switch order releases said point-to-point connection and provides parameters for said point-to-multipoint said mobile station (Scheduling mechanism orders switch PTP to PTM and sends PTM data which has parameters per Fig 3 & 4)

Referring to claim 34, Terry teaches: a method (UE subscript j 12 subscript j performs the method) comprising at a mobile station (UE subscript j 12 subscript j performs the method)

Performing link quality related measurement on a point-to-point channel which point-to-point channel is currently used by a mobile communication network for transmitting multicast data to said mobile station and transmitting measurement results to said mobile communication network

Wherein said measurement results are suited to enable said mobile communication network to estimate a link quality of said point-to-multipoint channel while transmitting multicast data on said point-to-point channel to said mobile station (40 per Fig 3 performs measurement).

Receiving an order from said mobile communication network to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data in case said mobile communication network determined that said estimated link quality of said point-to-multipoint channel reaches a required link quality (Mobile switches upon receipt of PTP per Fig 3 & 4)

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (U.S.

Patent Pub No.: 2003/0220119) in view of Homma (U.S. Patent No.: 5,572,678) further in view of Ohkubo (Patent Publication No.: US2001/0046877)

Referring to claim 9, the combination of Terry and Homma teaches: the method of claim 8,

The combination of Terry and Homma do not expressly call for: further comprising preventing a repeated switching between a point-to-point channel and point-to-multipoint channel for transmission of multicast data belonging to a single session of a multicast service as long as said mobile station remains within one cell served by said mobile communication network

Ohkubo teaches: as long as the power parameter received is reasonable then the same channel will be used per Pg 2 Para [0029] to Pg 3 Para [0040] which results in further comprising preventing a repeated switching between a point-to-point channel and point-to-multipoint channel for transmission of multicast data belonging to a single session of a

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multicast service as long as said mobile station remains within one cell served by said mobile communication network

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the processing of Ohkubo to the switching of the combination of Terry and Homma in order to control the power so that that the system would not switch between point-to-point channel and point-to-multipoint channel as long as long as power parameter sent by the mobile to the base station was within the range associated with associated with the point-to-point channel.

7. Claims 13 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (U.S. Patent Pub No.: 2003/0220119) in view of Homma (U.S. Patent No.: 5,572,678) further in view of Ramaswamy (U.S. Patent No.: 6,571,112)

Referring to claim 13, the combination of Terry and Homma teach: the method of claim 1

The combination of Terry and Homma do not expressly call for: software product running on a component of said mobile station.

Ramaswamy teaches: software product running on a component of said mobile station (col. 4 lines 7 to 29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the software product of Ramaswamy to the method of the combination of Terry and Homma because method requires a processor and software product in order to be implemented.

Referring to claim 22, the combination of Terry and Homma teach: the method of claim 17

The combination of Terry and Homma do not expressly call for: software product running on a component of said base station.

Ramaswamy teaches: software product running on a component of said base station (col. 3 lines 30 to 48)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the software product of Ramaswamy to the method of the combination of Terry and Homma because method requires a processor and software product in order to be implemented.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 13 & 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13 and 22 are directed to a software product. A software program product is not process, machine, or article of manufacture and therefore is non-statutory subject matter.

Allowable Subject Matter

10. Claims 3-4, 18, & 30-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

11. Applicant's arguments filed 7/7/08 have been fully considered but they are not persuasive.

The examiner respectfully disagrees with the applicant's argument that the 101 rejection has been traversed because applicant's specification defines software program product as storing code for running a processing component. The applicant has failed to claim a computer readable medium which stores instructions which are executable by a processor which performs the following steps or an article of manufacture. A computer program product which stores instructions can be interpreted as a listing and is not an article of manufacture.

Response relative to claims 1 and 10

The examiner respectfully disagrees with the applicant argument that the reference Terry needs to teach: "a mobile station sends a request to switch from a point-to-multipoint channel transmission to a point to point" because "a mobile station sends a request to switch from a point-to-multipoint channel transmission to a point to point" is not a claimed limitation.

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The examiner respectfully disagrees with the applicant argument that the combination of references, Terry and Homma, need to teach "a mobile station sends a request to switch form a point-to-multipoint channel transmission to a point-to-point channel transmission" because "a mobile station sends a request to switch form a point-to-multipoint channel transmission to a point-to-point channel transmission" is not a claimed limitation.

Thus there does not need to be a suggestion to enable the mobile station to request a switch from point-to-multipoint to point to point based on a determined link quality" because applicant has not claimed this limitation.

Response relative to claim 16 & 36

The examiner respectfully disagrees with the applicant's argument that the combination of references not teach" requesting and receiving from a mobile station measurement results for link quality related measurements on a point to point channel". The applicant has broadly claimed "related measurements".

The combination of reference teach: requesting and receiving from a mobile station measurement results for link quality related measurements on a point to point channel as follows:

Terry teaches: receiving from a mobile station measurement results of link quality related measurements on a point-to-point channel which point to point channel is currently used by said network from transmitting multicast data to said mobile station (NODE-B18 receives measurement from UE subscript j 12 subscript j per Fig 3 and 4)

estimating a link quality of a point-to-multipoint channel while transmitting multicast data on said point-to-point channel to said mobile station wherein said mobile communication network estimates a said link quality of said point-to-point multipoint channel based on said measurement results for said point-to-point channel (NODE-B18 receives measurement from UE subscript j 12 subscript j and estimates in channel quality measurement processing per Fig 3 and 4)

in case said estimated link quality of said point-to-multipoint channel reaches a required link quality ordering said mobile station to switch from said point-to-point channel to said point-to-multipoint (Scheduling mechanism orders per Fig 4)

Terry does not expressly call for: requesting from the mobile measurement results on link quality

Terry (US 6,810,236) teaches: requesting from the mobile measurement results on link quality (col. 3 lines 1 to 21)

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It would have been obvious to add the requesting from the mobile measurement results on link quality of Terry (U.S. 6,810, 236) to the system of Terry in order to determine the best usage of resources.

The examiner respectfully disagrees with the applicant argument that claim 16 requires "estimated link quality is used as a basis for deciding on whether a mobile station is to be order to switch from a point-to-point reception to point-to-point reception" because again estimated link quality is used as a basis for deciding on whether a mobile station is to be order to switch from a point-to-point reception to point-to-point reception" is not a claimed limitation.

The examiner respectfully disagrees with the applicant's argument that Terry needs to teach: "any link between channel measurements and a switch between point-to-point and point-to-multipoint" because applicant has failed to specify this limitation in the claim language. Applicant appears to be confused between what applicant's specification states and what applicant has claimed. Applicant appears to be reading applicant specification into the claim language but not claiming these features.

Relative to claims 17 & 34

The examiner respectfully disagrees with the applicant argument that the reference, Terry, does not teach "estimating a link quality of a point-to-multipoint channel while transmitting multicast data on a point-to-point channel to a mobile"

Terry teaches: estimating a link quality of a point-to-multipoint channel while transmitting multicast data on a point-to-point channel to a mobile (The CCC transmits to each UE or mobile or point to point. The UE or mobile measures and send back measurement to CCC. The measurements are assumed virtually simultaneously and therefore provide a estimate of point to multipoint per Pg 2 Para [0022] to Pg 3 Para [0032])

The examiner respectfully disagrees with the applicant argument that Terry fails to teach: "wherein said mobile communication network order said mobile station to switch from said point-to-point channel to said point-to multipoint channel for receiving multicast data by means of a switch order which switch order release said point-to-point connection and provides parameter for said point-to-multipoint for receiving said multicast data (Scheduling mechanism order switch PTP to PTM and send PTM data which has parameter per Fig 3 & 4)

The examiner disagrees with the applicant's argument that the reference Terry does not teach switching based upon link quality values because Terry indicates QoS requirements in para [0027] to [0029]. The link quality measure parameters are compared to QoS values or thresholds. The applicant goes on to further describe the difference between the prior art and applicant's specification again which are not in the claim and therefore not relevant.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. .

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT W. WILSON whose telephone number is (571)272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571/272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert W Wilson/
Primary Examiner, Art Unit 2419

RWW